

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

2007 JAN 17 P 3:49

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

FLOYD MARSHALL,

Plaintiff,

vs.

RANDALL KRAIG BOBO; And  
PRECISION MOVERS, INC.;

Defendants.

CASE NUMBER: 3:07CV56-WKW

**NOTICE OF REMOVAL**

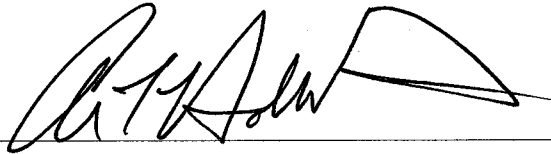
Come now the Defendants in this action, Randall Kraig Bobo and Precision Movers, Inc., and remove this case to the United States District Court for the Middle District of Alabama, Eastern Division, and as grounds therefore respectfully show unto the Court the following:

1. Plaintiff is a resident individual citizen of the State of Alabama. See Complaint, paragraph 1.
2. Defendant Randall Kraig Bobo is a citizen resident of the State of Georgia. Defendant Precision Movers, Inc., is a corporation created under the laws of the State of Georgia with its principal place of business in Georgia, thus a citizen of the State of Georgia.
3. Jurisdiction herein is based upon diversity of citizenship, pursuant to 28 U.S.C. Section 1332(a) and 28 U.S.C. Section 1441(a).

4. Plaintiff has filed a lawsuit against these Defendants in the Circuit Court of Russell County, Alabama, a copy of the Complaint being attached hereto as Exhibit "A", and being made a part hereof.
5. The Complaint seeks an amount and alleges an amount in controversy greater than \$75,000.00, exclusive of interest and costs. Specifically, Plaintiff claims injuries and damages as a result of an automobile accident. Plaintiff claims past medical expenses of approximately \$40,000.00. He claims pain and suffering as well as permanent injury. Plaintiff also claims future medical expenses, and lost income. In addition, Plaintiff claims punitive damages from the Defendants. Although Plaintiff did not specify a monetary amount in the Complaint, it is clear in this case that Plaintiff seeks an amount in excess of \$75,000.00, exclusive of interest and costs.
6. There are no other Defendants to this action besides these Defendants, and these Defendants are removing this case within the applicable time period, pursuant to the aforesaid statutes.
7. Upon the filing of this notice, these Defendants have given written notice thereof to the attorney for the Plaintiff, and have filed a copy of the removal proceedings and notice with the Circuit Court Clerk of Russell County, Alabama, all in accordance with the law.

WHEREFORE, these Defendants pray that the removal of said cause to the United States District Court for the Middle District of Alabama, Eastern Division, be effected and no further or other proceedings may be had with respect to this matter in the Circuit Court of Russell County, Alabama, pending a final decision and determination of controversy in the said United States District Court.

DATED this 17<sup>th</sup> day of January, 2007.



ALEX L. HOLTSFORD, JR. (HOL048)  
Attorney For Defendants

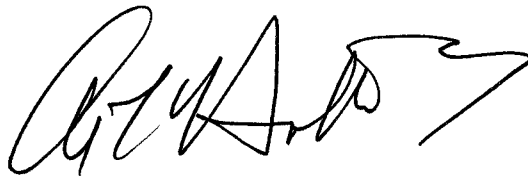
OF COUNSEL:  
NIX HOLTSFORD GILLILAND  
HIGGINS & HITSON, P. C.  
Post Office Box 4128  
Montgomery, Alabama 36103-4128  
(334) 215-8585

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day mailed, postage prepaid, an exact copy of the foregoing document to:

Dustin T. Brown  
Attorney For Plaintiff  
DAUGHTERY, CRAWFORD, FULLER  
& BROWN, LLP  
Post Office Box 1118  
Columbus, Georgia 31902

This the 17<sup>th</sup> day of January, 2007.



OF COUNSEL

IN THE CIRCUIT COURT OF RUSSELL COUNTY  
STATE OF ALABAMA

FLOYD MARSHALL

Plaintiff,

v.

RANDALL KRAIG BOBO and,  
PRECISION MOVERS, INC.

Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Civil Action File  
No. \_\_\_\_\_

**COMPLAINT**

COMES NOW Plaintiff Floyd Marshall and files this Complaint, showing the Court the following:

**PARTIES, JURISDICTION, & VENUE**

1. Plaintiff Floyd Marshall is a resident of the city of Auburn, Alabama at the address 358 West Drake Drive, Auburn, Alabama 36830.
2. Defendant Randall Kraig Bobo is believed to currently reside at 665 Ben Whiddon Road, Turner County, Ashburn, Georgia 31714-3714, where he may be served with legal process by certified mail in accordance with ALA. R. CIV. P. 4(i)(2) and ALA. R. CIV. P. 4.2(b). Venue against Defendant Bobo is proper in this Court and County, pursuant to ALA. CODE § 6-3-2(a)(3), because this is the county in which the collision occurred.
3. Defendant Precision Movers, Inc. ("Defendant Precision") is a Georgia corporation with a principal business address located at 80 North Labelle Avenue, Sycamore, Georgia 31790-3554. Defendant Precision is subject to the jurisdiction of this Court because it transacts business in the State of Alabama and was in the State of Alabama at the time of the collision that is the basis of this lawsuit. Defendant Precision may be served in accordance with

ALA. R. CIV. P. 4(c)(6), ALA. R. CIV. P. 4 (i)(2)(B), and ALA. R. CIV. P. 4.2(b) via certified mail on its registered agent in the State of Georgia, Anthony J. Boncimino, at 80 North Labelle Avenue, Sycamore, Georgia 31790. Venue against Defendant Precision is proper in this Court and County, pursuant to ALA. CODE § 6-3-7(a)(1), because this is the county in which the collision occurred.

4. The occurrence made the basis of this lawsuit occurred in the city of Phenix City, Russell County, Alabama on U.S. Highway 280/431.

5. Jurisdiction and venue are proper in this Court.

#### **OPERATIVE FACTS**

6. On Thursday, August 18, 2005, Defendant Bobo caused a car wreck that injured Mr. Marshall.

7. At the time of the wreck, Mr. Marshall was traveling south on U.S. Highway 280/431, and was stopped at the traffic light at Highway 80 West in Russell County, Alabama.

8. At that same time, Defendant Bobo was driving a vehicle south on U.S. Highway 280/431 near its intersection with Highway 80 West, behind the vehicle in which Mr. Marshall was traveling.

9. Without warning to Mr. Marshall, Defendant Bobo negligently, wantonly, and in reckless or conscious disregard of the rights or safety of others (and, in particular, the rights or safety of Mr. Marshall) caused a collision by rear-ending the vehicle in which Mr. Marshall was traveling. The actions and omissions of Defendant Bobo proximately caused the collision and Mr. Marshall's injuries and damages that are the basis of this Complaint.

10. At all times pertinent to this Complaint, Defendant Bobo was an agent and employee of and acting within the line and scope of his employment for Defendant Precision.

11. As a result of the collision that was proximately caused by the negligent and/or wanton acts or omissions of Defendant Bobo, Mr. Marshall suffered and continues to suffer from injuries.

12. As a result of the collision that was proximately caused by the negligent and/or wanton acts or omissions of Defendant Bobo, Mr. Marshall incurred past medical expenses and may incur future medical expenses. Mr. Marshall was also temporarily disabled from working, causing losses, and his physical health and quality of life have been impaired as a proximate result of Defendant Bobo's negligent and/or wanton acts or omissions.

### **LIABILITY OF DEFENDANTS**

#### **(Respondeat Superior Liability of Defendant Precision)**

13. At all times pertinent herein, Defendant Bobo was an employee and/or agent of Defendant Precision and was acting within the line and scope of his employment and/or agency.

14. Defendant Precision is liable under the doctrine of respondeat superior for the negligent and wanton acts and/or omissions of Defendant Bobo, which acts or omissions proximately caused injuries and damages to Plaintiff Floyd Marshall.

#### **(Negligence, Wantonness, and Negligence Per Se of Defendant Bobo)**

15. Defendant Bobo owed a duty of care to the motoring public in general, and to Mr. Marshall in particular, to operate his vehicle in a reasonable and prudent manner and to adhere to the pertinent Rules of the Road of the State of Alabama.

16. Defendant Bobo breached his duty of care in a number of ways and is liable for the following negligent and/or wanton acts and omissions including, but not limited to:

- (a) following too closely, in violation of ALA. CODE § 32-5A-89 of the Rules of the Road, which amounts to both ordinary negligence and negligence

*per se*;

- (b) failing to drive at a reasonable and prudent speed and at a safe and appropriate speed when approaching a traffic light and intersection, in violation of ALA. CODE § 32-5A-170 and ALA. CODE § 32-5A-112 of the Rules of the Road, which amounts to both ordinary negligence and negligence *per se*;
- (c) failing to yield and failing to stop and thereby obey an official traffic control device, in violation of ALA. CODE § 32-5A-31 of the Rules of the Road, which amounts to both ordinary negligence and negligence *per se*;
- (d) failing to keep a proper lookout of vehicles ahead of him, failing to keep the vehicle he was driving under control so as to avoid striking another vehicle, and generally operating his vehicle in an unsafe and imprudent manner, thereby placing the well-being of the motoring public in general, and Mr. Marshall in particular, in danger;

**(Negligent or Wanton Hiring and/or Supervision By Defendant Precision)**

17. Defendant Precision may be liable to Plaintiff for negligent and/or wanton hiring and retention of Defendant Bobo and failure to take reasonable steps to insure Defendant Bobo was fit to drive a motor vehicle before employing him or continuing to employ him.

18. Defendant Precision may be liable to Plaintiff for negligent and/or wanton supervision of Defendant Bobo and failure to take reasonable measures to prevent Defendant Bobo from engaging in the actions that caused Plaintiff's injuries.

**DAMAGES**

19. The damages claimed by Plaintiff were solely and proximately caused by the tortious acts and omissions of Defendant Bobo and Defendant Precision.

20. As a result of the collision, Mr. Marshall suffered serious and painful injuries to his body and mind and suffered and continues to suffer both physically and mentally. Plaintiff Mr. Marshall claims general damages for all elements of the physical and mental suffering he endured, he endures, and he will endure in the future as determined by the enlightened conscience of impartial jurors.

21. As a result of the collision, Plaintiff Mr. Marshall incurred medical expenses and may incur medical expenses in the future. Plaintiff Mr. Marshall claims special damages in the form of compensation for his past and future medical expenses, in an amount as shown at trial and determined by the jury to be the reasonable value of the medical services.

22. As a result of the collision, Plaintiff Mr. Marshall experienced compensable losses and lost wages and property damage. Plaintiff Mr. Marshall seeks special damages in the form of compensation for those losses, in an amount as shown at trial and determined by the jury to be the reasonable value of the lost wages and property damage.

23. Defendant Bobo is liable to Plaintiff for all personal injuries and damages Plaintiff suffered and sustained, including past and present and future damages, as a result of the collision that is the basis of the lawsuit.

24. Plaintiff Mr. Marshall seeks punitive damages, pursuant to Alabama law including ALA. CODE § 6-11-20, against Defendant Bobo for his conduct which was carried on with a reckless or conscious disregard of the rights or safety of others. *See* ALA. CODE 32-5A-190.



**PRAYER FOR RELIEF**

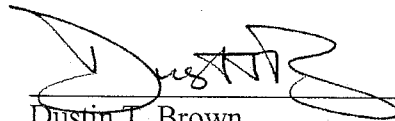
WHEREFORE, Plaintiff prays for the following relief:

- (a) that summons be issued and service be perfected upon Defendant Bobo by serving said summons and a copy of this Complaint upon Defendant by Certified Mail at his place of residence at 665 Ben Whiddon Road, Ashburn, GA 31714-3714, thereby requiring Defendant to appear before this Court as provided by law and answer this Complaint;
- (b) that summons be issued and service be perfected upon Defendant Precision by serving said summons and a copy of this Complaint upon Defendant by Certified Mail upon its registered agent, Anthony J. Boncimino, at the registered agent's address of 80 North Labelle Avenue, Sycamore, GA 31790, thereby requiring Defendant to appear before this Court as provided by law and answer this Complaint;
- (c) that Plaintiff have a trial by jury;
- (d) that Plaintiff have judgment in his favor and against Defendants on all counts for compensatory and punitive damages plus costs;
- (e) for such other relief as the Court deems just and proper.

This 3rd day of January, 2007.

Respectfully submitted,

DAUGHTERY, CRAWFORD,  
FULLER & BROWN, LLP



Dustin T. Brown  
Alabama Bar No. ASB-8224N51B

Post Office Box 1118  
Columbus, Georgia 31902  
(706) 320-9646 phone  
(706) 494-0221 facsimile  
[dustin@dcfblaw.com](mailto:dustin@dcfblaw.com)

**Service to be made on Defendants as follows:**

**CERTIFIED MAIL**

Randall Kraig Bobo  
665 Benwiddon Road  
Ashburn, Georgia 31714-3714

**CERTIFIED MAIL**

Mr. Anthony J. Boncimino, Registered Agent for  
Precision Movers, Inc.  
80 North Labelle Avenue  
Sycamore, Georgia 31790